

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 EA-06 ISO-00 SP-02 AID-05 NSC-05

CIEP-01 TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00

COME-00 FRB-03 INR-07 NSAE-00 USIA-06 XMB-02 OPIC-03

LAB-04 SIL-01 L-02 H-02 /090 W
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P R 230715Z MAY 75

FM AMEMBASSY CANBERRA

TO SECSTATE WASHDC PRIORITY 5812

INFO AMCONSUL BRISBANE

AMEMBASSY LONDON

AMCONSUL MELBOURNE

AMCONSUL PERTH

AMCONSUL SYDNEY

AMEMBASSY TOKYO

AMEMBASSY WELLINGTON

USMISSION OECD PARIS

LIMITED OFFICIAL USE CANBERRA 3308

E.O. 11652: N/A

TAGS: EALR, EINV, AS

SUBJ: NEW FOREIGN TAKEOVERS BILL INTRODUCED

REF: (A) CANBERRA 8027, DECEMBER 11, 1974 NOTAL

(B) CANBERRA A-239, DECEMBER 18, 1974 NOTAL

(C) CANBERRA 5316, SEPTEMBER 27, 1972 NOTAL

1. SUMMARY: NEW FOREIGN TAKEOVERS BILL INTRODUCED MAY 22.

BILL WOULD REPLACE 1972 INTERIM LEGISLATION AND CODIFY

"POLICY MEASURES" GOA HAS IMPLEMENTED SINCE 1972. NEW

BILL WOULD EMPOWER SCREENING COMMITTEE TO EXAMINE

TRANSACTIONS IN FOUR BROAD CATEGORIES, INCLUDING

TAKEOVER BIDS BETWEEN FOREIGN INTERESTS INVOLVING

BUSINESS OPERATIONS IN AUSTRALIA. BILL NOT SURPRIZING

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IN LIGHT OF PREVIOUS GOA STATEMENTS, ESPECIALLY THEN-
TREASURER CREAN'S DECEMBER 10, 1974 STATEMENT.

OPPOSITION NOT LIKELY TO CHALLENGE BILL SERIOUSLY. NO
UNDUE DELAY IN PASSAGE FORESEEN. EMBASSY WILL REPORT
FURTHER. END SUMMARY.

2. GOA INTRODUCED INTO PARLIAMENT MAY 22 ITS LONG-
AWAITED FOREIGN TAKEOVERS BILL 1975 WHICH WOULD PROVIDE
NEW LEGISLATIVE AUTHORITY FOR IMPLEMENTING CURRENT GOA
POLICY ON SCREENING FOREIGN TAKEOVER BIDS. NEW BILL
GENERALLY CONFORMS TO OUTLINE GIVEN BY THEN-TREASURER
CREAN IN HIS DECEMBER 10, 1974 (REFS A AND B) STATEMENT
PROMISING NEW LEGISLATION TO REPLACE 1972 INTERIM
LEGISLATION ENACTED BY PREVIOUS LIBERAL-COUNTRY PARTY
GOVERNMENT (REF C). PROPOSED NEW LEGISLATION WOULD
ALSO CODIFY "POLICY MEASURES" WHICH GOA HAS ANNOUNCED
SINCE 1972 TO BROADEN SCOPE OF 1972 BILL BUT WHICH HAVE
NEVER HAD SPECIFIC LEGISLATIVE AUTHORITY BEFORE.

3. NEW BILL WOULD EMPOWER EXISTING GOA COMMITTEE ON
FOREIGN TAKEOVERS (COFT), WHICH ADVISES THE TREASURER,
TO EXAMINE TAKEOVER BIDS INVOLVING FOUR TYPES OF
TRANSACTIONS:

- (A) ACQUISITION OF VOTING SHARES;
- (B) METHODS WHICH HAVE ALLEGEDLY BEEN USED IN PAST
TO EVADE PREVIOUS GOA STATUTORY AND POLICY
MEASURES, SUCH AS ACQUIRING SHARES OTHER THAN
VOTING SHARES, SPLITTING A LARGE SHAREHOLDING
INTO SMALL MONIMEE GROUPS, LEASES OR LICENSES,
AND ARGEEMENTS OR ARRANGEMENTS RELATING TO BOARD
REPRESENTATION AND PARTICIPATION RIGHTS;
- (C) ACQUISITION OF ASSETS AND MINERAL RIGHTS; AND
- (D) TRANSFERRING OF CONTROL OF A BUSINESS FROM ONE
FOREIGN GROUP TO ANOTHER.

CRITERIA WHICH COFT AND TREASURER WILL FOLLOW IN
DETERMINING WHETHER A PARTICULAR TAKEOVER WOULD BE
IN THE "NATIONAL INTEREST" ARE NOT RPT NOT INCORPORATED
IN NEW BILL, APPARENTLY TO ALLOW GOA GREATER
FLEXIBILITY. BILL ALSO DEFINES "AUSTRALIAN BUSINESS"
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TO INCLUDE FOREIGN-OWNED BUSINESSES OPERATING IN
AUSTRALIA TO BRING WITHIN COFT'S AMBIT TAKEOVER BIDS
BETWEEN FOREIGN INTERESTS.

4. EMBASSY COMMENT: NEW BILL PRESENTS NO SURPRISES
IN LIGHT OF LONG HISTORY OF THIS AND PREVIOUS GOA'S
STATEMENTS ON NEED TO SCREEN FOREIGN TAKEOVERS AND
APPROVE ONLY THOSE SERVING THE "NATIONAL INTEREST".
IT SEEMS UNLIKELY THAT OPPOSITION PARTIES WILL SERIOUSLY
CHALLENGE BILL, BOTH BECAUSE PREVIOUS LIB-CP GOA

STARTED THIS BALL ROLLING IN 1972 AND BECAUSE OPPOSITION HAS NEVER REALLY CRITICIZED WHITLAM GOA FOR EXPANDING COFT'S MANDATE. ONE TREASURY OFFICIAL TOLD EMBOFF THAT GOVERNMENT MAY TRY TO PASS BILL IN CURRENT SESSION OF PARLIAMENT, WHICH WAS TO HAVE ENDED MAY 29 BUT WHICH MAY BE EXTENDED A WEEK OR SO. EVEN IF THE BILL MUST WAIT UNTIL THE BUDGET SESSION BEGINS IN AUGUST, ITS PASSAGE IS LIKELY WITHOUT UNDUE DELAY. EMBASSY WILL REPORT FURTHER IN MORE DETAIL AND POUCH COPIES OF BILL WHEN AVAILABLE.
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